

FISCAL NOTE

SB 2420

January 17, 2006

SUMMARY OF BILL: Defines the term public use, as it applies to the power of eminent domain, to include a public necessity. Public necessity is defined as a “public necessity of the extreme sort warranted by facts of independent public significance. It does not include private ownership or lease for private economic development or redevelopment.” The bill further stipulates that condemned property may not be taken for the purpose of transferring, leasing, or allowing the use of such property to private entities for the purpose of expanding tax revenue or promoting economic development. If a taken property is not used for the intended purpose, the person from whom the property was taken, or their heirs, would have 90 days from the date of notice to purchase the property for the price paid. After the 90 day option has expired, the property may be offered at public sale. The burden of proof for any contested taking would lie with the entity exercising such right.

ESTIMATED FISCAL IMPACT:

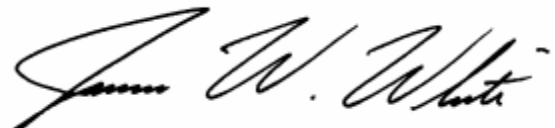
Other Fiscal Impact – Changes in property tax collections could occur as a result of this bill. Currently, if an entity acquires property through the power of eminent domain, there may be a change in tax status as the property changes from a taxable parcel to a tax exempt parcel. If the taken parcel is subsequently leased to a private entity, in-lieu of tax payments may be negotiated with the private entity. The amount of such payments can vary according to individually negotiated circumstances and may differ from the amount of tax collected prior to the government taking. Under this bill, such transactions would no longer take place. The property tax revenue impact cannot reasonably be quantified due to the unique circumstances of each taking.

Assumptions:

- Industrial development boards are authorized to use the power of eminent domain to take property. To date, staff has been unable to find any instance of industrial development boards utilizing this power.
- The use of the power of eminent domain for traditional purposes such as the construction of roads would be a permissible public use, rather than promotion of economic development, and would therefore continue.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director